

R E M A R K S

Responsive to the restriction requirement imposed in the Official Action of December 2, 2009, applicant hereby provisionally elects Group I, claims 1-6, with traverse. The grounds for traverse are as follows:

1. All of the pending claims 1-8 have already been examined. The previous amendment broadened claim 7, but the remaining recitations of that claim were searched and examined as evidenced by the Official Action of April 6, 2009.

It is not evident why restriction is being required as to subject matter already examined, and the outstanding Official Action does not address that point. In any event, MPEP §803 directs that:

“[i]f the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.”

The absence of burden is seldom more clear than where the limitations of the claims at issue have in fact already been examined.

2. The Official Action misidentifies the “special technical feature” among claims 1 and 7 as being at least two exhaust levels for separately collecting gas from the interior of the collector.

However, claim 1 recites "at least one exhaust influencing means (71)...for selectively varying gas flow conditions in at least one of said at least two exhaust levels (E1, E2);" and claim 7 similarly recites "selectively generating different gas flow conditions in at least two of said exhaust levels."

The above special technical feature is thus common to both groups of claims, and the Official Action makes no contention that it is disclosed in the prior art. As such, the Official Action does not make a proper determination of lack of unity under PCT Rule 13.2, and therefore does not justify a requirement for restriction.

For the foregoing reasons it is believed to be evident that the restriction requirement should be withdrawn and that examination on the merits of the pending claims 1-8 should resume. Such action is accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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